

JS 44 (Rev. 02/19)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Dean Villanova

(b) County of Residence of First Listed Plaintiff Montgomery

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
 Jerry Lyons, Esq - Chaiken, Lyons & Gaynier
 1800 JFK Blvd., Suite 810, Philadelphia, PA 19103
 215-564-1800

DEFENDANTS

United States of America Department of Interior National Park Service & City of Philadelphia & Ghost Tours Philadelphia, LLC

County of Residence of First Listed Defendant Washington, DC

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. Section 1332

Brief description of cause:
Trip and Fall**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

 DEMAND \$
 150,000.00

 CHECK YES only if demanded in complaint:
 JURY DEMAND: ☒ Yes ☐ No
VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

03/19/2024

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DESIGNATION FORM

(to be used by counsel to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 367 Walnut Street, Pottstown, PA 19464

Address of Defendant: 1849 C Street NW, Washington, DC 20240

Place of Accident, Incident or Transaction: _____

RELATED CASE IF ANY:

Case Number: _____ Judge: _____ Date Terminated _____

Civil cases are deemed related when *Yes* is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit Pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier Numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any now pending or within one year previously terminated action in this court except as note above.

DATE: 3/19/24

[Signature]
Attorney-at-Law (Must sign above)

49543
Attorney I.D. # (if applicable)

Civil (Place a ✓ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts)
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Wage and Hour Class Action/Collective Action
- ☐ 6. Patent
- ☐ 7. Copyright/Trademark
- ☐ 8. Employment
- ☐ 9. Labor-Management Relations
- ☐ 10. Civil Rights
- ☐ 11. Habeas Corpus
- ☐ 12. Securities Cases
- ☐ 13. Social Security Review Cases
- ☐ 14. Qui Tam Cases
- ☒ 15. All Other Federal Question Cases. (Please specify): UNITED STATES IS A DEFENDANT

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): _____
- ☐ 7. Products Liability
- ☐ 8. All Other Diversity Cases: (Please specify) _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration)

I, _____, counsel of record or pro se plaintiff, do hereby certify:

☐ Pursuant to Local Civil Rule 53.2 § 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: _____

Attorney-at-Law (Sign here if applicable)

Attorney ID # (if applicable)

NOTE: A trial de novo will be a jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Dean Villanova	:
367 Walnut St.	:
Pottstown PA 19464	:
vs	:
United States of America	:
Department of Interior	:
National Park Service	:
1849 C Steet NW	:
Washington, DC 20240	:
and	:
City of Philadelphia	:
1515 Arch Street, 14 th Floor	:
Philadelphia, PA 19102	:
and	:
Ghost Tours Philadelphia, LLC	:
d/b/a Ghost Tours of Philadelphia a/k/a	:
Ghost Tours.com	:
864 The Hideout	:
2302 Brookfield Road	:
Lake Ariel, PA 18436	:

CIVIL ACTION

PARTIES AND JURISDICTION

1. Plaintiff, Dean Villanova is an adult individual, citizen of Montgomery County, Commonwealth of Pennsylvania, residing at the above listed address.

2. Defendant United States of America (“USA”), acted by and through its Department of Interior, National Park Service, which is an agency of the United States federal government, having its principal place of business at the above listed address, and at all times material hereto acted through its employees, servants, agents and representatives, all of whom were acting within the course and scope and with Defendant’s authority.

3. Defendant City of Philadelphia (“PHL”) is a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with its principal place of business located at the above captioned address, and at all times material hereto acted through its employees, servants, agents and representatives, all of whom were acting within the course and scope and with Defendant’s authority.

4. Defendant Ghost Tours of Philadelphia, LLC (“GTP”) d/b/a Ghost Tours of Philadelphia a/k/a Ghost Tours.com is a Pennsylvania business entity, conducting tours throughout Philadelphia, having a principal place of business at the above address, and at all times material hereto acted through its employees, servants, agents, representatives, tour guides and independent contractors, all of whom were acting within the course and scope and with Defendant’s authority.

5. Jurisdiction in the court is based upon 28 USCS § 1346, United States as a Defendant.

6. At all times material hereto, Defendants USA and PHL, jointly, severally and/or individually, did own, possess, control, manage, maintain, inspect and were otherwise responsible, primarily and/or secondarily, for the condition of the sidewalk and trees along the north side of the 400 block of Walnut Street, Philadelphia, Pennsylvania and had a duty to inspect, maintain and repair the sidewalk and trees in a reasonably safe condition, free of defects or other dangerous and hazardous conditions.

7. As to Defendant USA, sovereign immunity had been waived pursuant to The Federal Tort Claims Act, 28 U.S.C.S. § 1346 et seq.

8. As to Defendant PHL, governmental immunity had been waived pursuant to 42 Pa.C.S. § 8542

(4) Trees, traffic controls and street lighting. — A dangerous condition of trees, traffic signs, lights or other traffic controls, street lights or street lighting systems under the care, custody or control of the local agency, except that the claimant to recover must establish that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred and that the local agency had actual notice or could reasonably be charged with notice under the circumstances of the dangerous condition at a sufficient time prior to the event to have taken measures to protect against the dangerous condition.; and

(7) Sidewalks. — A dangerous condition of sidewalks within the rights-of-way of streets owned by the local agency, except that the claimant to recover must establish that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred and that the local agency had actual notice or could reasonably be charged with notice under the circumstances of the dangerous condition at a sufficient time prior to the event to have taken measures to protect against the dangerous condition. When a local agency is liable for damages under this paragraph by reason of its power and authority to require installation and repair of sidewalks under the care, custody and control of other persons, the local agency shall be secondarily liable only and such other persons shall be primarily liable.

9. Defendant GTP, at all times material hereto, conducted walking tours through the streets of Philadelphia, known as “Ghost Tours,” which included walking on the sidewalk along the north side of the 400 block of Walnut Street in Philadelphia, and had a duty for the safety of its customers and business invitees, to inspect and report, or cause to be inspected, reported, maintained and repaired the sidewalk and trees along the north side of the 400 block of Walnut Street, Philadelphia, Pennsylvania.

FACTUAL BACKGROUND

10. On the evening of April 15, 2022, Plaintiff Dean Villanova was a business invitee and customer of GTP, and visitor to Defendant USA's property, taking a "Ghost Tour" for which he paid valuable consideration.

11. The "Ghost Tour" was being led, conducted and supervised by Defendant GTP, by and through its agents, employees, servants and personnel, working within the course of their employment and with Defendant's authority, directing the tourists and sightseers to look at various points of interest.

12. As Defendant GTP led the ghost tour along the 400 block of Walnut Street, Plaintiff Dean Villanova tripped, stumbled, fell and suffered injuries due to the hazardous and dangerous condition of pushed up tree roots, missing, loose and raised bricks on the sidewalk.



13. Plaintiff Dean Villanova suffered injuries including but not limited to the ligaments, tendons, labrum, cartilage lining and tissue of his left shoulder, requiring surgery, physical therapy, physical limitations, loss of motion, pain and suffering, embarrassment and humiliation, loss of life's pleasures, medical bills and permanent impairments of body functions and loss of motion, and medical expenses in excess of \$ 5,000.

**COUNT I - NEGLIGENCE
DEAN VILLANOVA v. UNITED STATES**

14. Plaintiff Dean Villanova incorporates by reference ¶¶ 1 through 13.

15. At all times material hereto, Defendant USA was obliged and had a duty to inspect, patrol, maintain, manage and repair the sidewalk and trees along the 400 block of Walnut Street by virtue of the National Park Service Management Policies.

15. The Plaintiff's fall and resulting injuries were caused by the negligence and carelessness of Defendant USA, individually, jointly and/or severally, by:

- a. creating an unsafe environment, violative of sections 1.4.7 and 8.2 of the National Park Service Management Policies;
- b. creating an unsafe environment, under the Policy's own definition of "Unacceptable impacts;"
- c. failing to take action to identify and eliminate the unacceptable impact of unsafe environment, violative of 1.4.7 of the Policy, after having notice of the danger of loose and missing bricks on the sidewalks on its property;
- d. failing to investigate and eliminate the unacceptable impact of unsafe environment, violative of 1.4.7 of the Policy, after having notice of the danger of loose and missing bricks on the sidewalks on its property;
- f. lacking, misusing and otherwise failing to use its discretion in that it knew of similar defects on the sidewalk and walkway just a few blocks away; and
- e. violating Philadelphia Property Maintenance Code § 11-505, Sidewalk Paving and Other Improvements by Property Owners.

WHEREFORE, Plaintiff Dean Villanova demands trial by a jury of twelve person and judgment in his favor, jointly and severally, and avers damages in excess of \$ 75,000.00.

COUNT II - NEGLIGENCE
DEAN VILLANOVA v. CITY OF PHILADELPHIA

16. Plaintiff Dean Villanova incorporates by reference ¶¶ 1 through 15.

17. At all times material hereto, Defendant PHL was obliged and had a duty to cause to be inspected, patrolled, maintained, managed and repaired, the sidewalk and trees along the 400 block of Walnut Street by virtue of 42 Pa.C.S. § 8542 (7), which provides, in part: When a local agency is liable for damages under this paragraph by reason of its power and authority to require installation and repair of sidewalks under the care, custody and control of other persons, the local agency shall be secondarily liable only and such other persons shall be primarily liable.

18. In Pennsylvania, a property owner has the primary duty of keeping the sidewalk in front of his property in repair, and the city's liability to see that the sidewalk is left in repair is secondary. Restifo v. Philadelphia, 617 A.2d 818 (Pa.Cmwlth.1992); Psichos v. Sauvion, 520 A.2d 945 (Pa.Cmwlth.1987).

19. At all times material hereto, Defendant PHL was obliged and had a duty to inspect, patrol, maintain, repair and trim a dangerous condition of trees, under the care, custody or control of the local agency, except that the claimant to recover must establish that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred and that the local agency had actual notice or could reasonably be charged with notice under the circumstances of

the dangerous condition at a sufficient time prior to the event to have taken measures to protect against the dangerous condition by virtue of 42 Pa.C.S. § 8542 (4).

20. Defendant PHL, through its Parks & Recreation department manages all street trees, as well as park trees, in the city of Philadelphia and is responsible for maintaining, planting, pruning, trimming and removing street trees.

21. The Plaintiff's fall and resulting injuries were caused by the negligence and carelessness of Defendant PHL, individually, jointly and/or severally, by:

- a. failing to warn the Plaintiff of the aforementioned hazardous and dangerous condition of the uprooted tree and missing and loose bricks upon the sidewalk;
- b. failing to properly inspect and maintain the sidewalk and the tree;
- c. allowing the hazardous and dangerous condition to exist for an unreasonable amount of time after having sufficient notice, or constructive notice, thereof;
- d. failing to erect barricades and/or post other warning devices at the location of the said hazardous and dangerous condition;
- e. failing to make timely and proper repairs of the sidewalk and trees, after having notice, or constructive notice, thereof;
- f. allowing the sidewalk and tree to remain in an unsafe condition after having notice, or constructive notice, thereof;
- g. failing to repair the sidewalk and tree;
- h. failing to inspect the sidewalk and tree, and otherwise failing to notify the property owner of the dangerous condition; and

i. failing to notify the property owner of the dangerous condition and disrepair of the sidewalk.

WHEREFORE, Plaintiff Dean Villanova demands trial by a jury of twelve person and judgment in his favor, jointly and severally, and avers damages in excess of \$ 75,000.00.

**COUNT III - NEGLIGENCE & BREACH OF CONTRACT
DEAN VILLANOVA v. GHOST TOURS PHILADELPHIA, LLC**

22. Plaintiff Dean Villanova incorporates by reference ¶¶ 1 through 21.

23. At all times material hereto, Defendant GTP was obliged and had a duty to observe, inspect, patrol, and/or warn its customers of the dangers along the paths of its guided tours.

24. The Plaintiff's fall and resulting injuries were caused by the negligence and carelessness of Defendant GTP, individually, jointly and/or severally, by:

- a. failing to warn the Plaintiff of the aforementioned hazardous and dangerous condition of the uprooted tree and missing and loose bricks upon the sidewalk;
- b. failing to observe, inspect, patrol, warn or give advance notice to Plaintiff of the dangerous sidewalk and the uprooted tree;
- c. leading the Plaintiff on a tour path that exposed him to unreasonable walking surfaces;
- d. leading the Plaintiff onto a unguarded and dangerous path, knowing that Plaintiff would be distracted and looking at the sights, and not necessarily at the walking surface during the tour;
- e. failing to make timely and proper inspection of the tour route in advance of the tour; and
- f. failing to take an alternate route that was safe and free of dangerous condition.

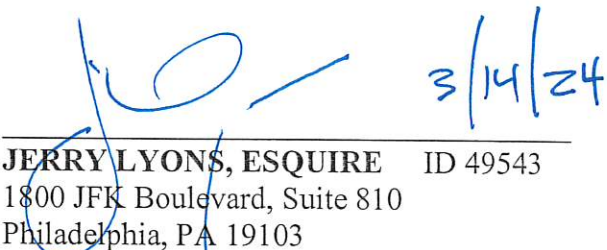
25. Plaintiff paid valuable consideration for the ghost tour, which Defendant GTP accepted.

26. Plaintiff relied to his detriment that Defendant GTP was knowledgeable of the paths on which it would lead its customers.

27. Defendant GTP breached the tour agreement with Plaintiff by failing to provide a safe tour.

WHEREFORE, Plaintiff Dean Villanova demands trial by a jury of twelve person and judgment in his favor, jointly and severally, and avers damages in excess of \$ 75,000.00.

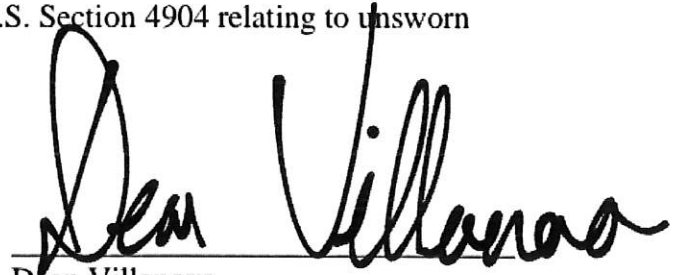
Respectfully submitted,
CHAIKEN, LYONS & GAYNIER



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1800 JFK Boulevard, Suite 810
Philadelphia, PA 19103
tel 215-564-1800 fax 215-564-5524
jlyons@jchaikenlaw.com
Attorney for Plaintiff

VERIFICATION

Dean Villanova states that he is the Plaintiff in this action and verifies that the facts upon which statements made in the foregoing document are based, to the best of his knowledge, information and belief, are true and correct. The undersigned understand that the statements therein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.



Dean Villanova